INDIANA POST-CONVICTION RELIEF FACT SHEET

THIS DOCUMENT IS INTENDED ONLY TO BE AN INFORMATIVE RESOURCE, DOES NOT CONSTITUTE LEGAL ADVICE, AND DOES NOT ESTABLISH OR IMPLY AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN YOU AND THE INDIANA INNOCENCE PROJECT.

- Under Indiana law, once your direct appeal is complete, you may pursue post-conviction relief ("PCR"). You may not file a Petition for Post-Conviction Relief until your direct appeal is concluded.

- Post-conviction relief is a collateral review process where you may challenge your conviction and/or sentence based on grounds that were unknown and/or unavailable during the direct appeal stage.

- The PCR process begins by you filing a *pro se* (meaning "for oneself") Petition for Post-Conviction Relief. Blank PCR Petitions are available in the law libraries in all Indiana Department of Correction adult facilities.

- Most of the information requested in the blank PCR Petition is background information about you and your case. Some of the questions ask for more substantive information.

- Specifically, Question 8 asks for you to state **all** the legal grounds known to you for vacating your conviction or sentence. Some examples of such grounds are 1) ineffective assistance of counsel and 2) newly discovered evidence. Question 9 asks you to state the facts that you believe support the legal grounds you raise in Question 8.

- So, if in response to question 8(a) you state that you received ineffective assistance of trial counsel, in response to Question 9(a), you will set out all the facts that you believe show how your trial counsel was ineffective.

- If you want to have counsel appointed to represent you, check "yes" in response to question 18(a) and then complete the affidavit of indigency on the last page.

- When you've completed the PCR Petition, you will need to mail the original and two copies (three copies total) to the county clerk of the county in which you were convicted.

- Once the county clerk receives the copies of your PCR Petition, your case will be docketed. If you asked for the appointment of counsel and have shown you are indigent, the judge should appoint the State Public Defender's office to represent you. The State Public Defender's office will then assign an attorney to your case.

- When the State Public Defender receives the petition from the court, the deputy public defender assigned your case will review the complete record and your claims. If you have omitted any grounds which entitle you to relief, the petition will be amended to include those grounds.

- While there is no specific time limit for filing a state PCR petition, delay creates a risk of facing defenses such as laches raised by the State. Also, because of the 1) one-year time limit for filing habeas corpus petitions in federal court, and 2) since all federal constitutional claims must be presented to a state court before federal review, please review the federal habeas fact sheet and keep the one-year limit in mind when deciding the timing of filing your state post-conviction relief petition. Filing your petition in state court will stop the running of the one-year federal period.

- We encourage you to complete the form and send it to the trial court clerk as soon as you can. If your PRC is unsuccessful, you may want to seek habeas corpus relief in federal court. Please see our FEDERAL HABEAS CORPUS FACT SHEET for more information.